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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,437	12/06/2001	F. Murphy Sprinkel JR.	033018-070	7405
7590	11/19/2003			EXAMINER
Peter K. Skiff BURNS, DOANE, SWECKER & MATHIS, L.L.P. P.O. Box 1404 Alexandria, VA 22313-1404				EREZO, DARWIN P
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 11/19/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.	10/003,437	Applicant(s)	SPRINKEL ET AL.
Examiner	Darwin P. Erez	Art Unit	3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION:

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 22 August 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 18-21 and 23-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 18-21, 23-25 and 32-37 is/are rejected.
- 7) Claim(s) 26-31 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).:  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10, 12, 13.                    6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 18-21, 23-25 and 32-37 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,519,191 to Ketcham et al.
3. **As to claim 18**, Ketcham teaches a method of manufacturing a vaporizing device comprising the steps of providing a fluid passage in a body (see Fig. 4), the fluid passage having an inlet opening and an outlet opening (this is inherent since Fig. 4 depicts a flow through heater); and forming a tubular heater **60** by depositing a thin resistive film (col. 9, lines 21-29) inside the fluid passage such that the film lines part of the length of the passage; the heater being operable to volatilize fluid in the passage by passing an electrical current through the film (via electrical leads **70** and **72**).
4. **As to claim 19**, Ketcham discloses the depositing step comprising introducing a metal in dispersion in the flow passage (col. 6, lines 27-53).
5. **As to claim 20**, Ketcham discloses using platinum salt during the depositing step (col. 6, lines 36-43).
6. **As to claim 21**, Ketcham discloses forming electrical contacts **70** and **72**.

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7. **As to claim 23**, Ketcham discloses the depositing step comprising coating the interior of the passage with a layer of powder (col. 6, line 37).

8. **As to claim 24**, Ketcham discloses coating the interior with a metal salt solution and heating the passage to a temperature sufficient to reduce the deposited material to a thin metal film (col. 7, lines 34-45).

9. **As to claim 25**, Ketcham teaches a method of manufacturing a vaporizing device.

10. **As to claim 32**, Fig. 4 of Ketcham discloses the device made by the method of claim 26. Since the claim is directed towards a device claim, the specific depositing steps of the method is irrelevant since patentable weight is given to the final product and not the method of making the product.

11. **As to claim 33**, Ketcham discloses the use of platinum (col. 6, lines 36-43).

12. **As to claim 34**, Ketcham discloses the fluid passage located in a multilayer body (see Fig. 4).

13. **As to claim 35**, Ketcham discloses the heater comprising a layer of platinum (col. 6, lines 36-43).

14. **As to claim 36**, Ketcham discloses a bio-compatible heater.

15. **As to claim 37**, Ketcham discloses a device having several layers enclosing a channel therebetween (see Fig. 4).

***Allowable Subject Matter***

16. Claims 26-31 are allowed.

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***Response to Arguments***

17. Applicant's arguments with respect to claims 18-21 and 23-25 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darwin P. Erezo whose telephone number is (703) 605-0420. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

dpe



WEILUN LO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700